

administration upon his estate. Upon this petition, an order was passed on the 14th, directing that the case should be proceeded in as if the death of the said Trundle had not occurred, appointing Alexander Kilgour, as trustee in the stead of the said Trundle, and directing the administrators to surrender to the new trustee, all the bonds, &c., in their possession, which had been received by the said David as trustee—unless cause should be shown before a day limited.

On the 8th of January, 1847, a further order was passed, confirming the order of the 14th of October, 1846, and authorising the trustee, Kilgour, to proceed to execute the trust upon filing his bond.

The trustee, Kilgour, filed his bond, and proceeded to make the sales and reported the same to the court.

On the 5th of October, 1849, the Auditor filed his report, and stated two accounts, A. and B., between the administrators of David Trundle, and the trustee, Kilgour.

On the same day, the trustee, Kilgour, filed a petition, alleging, that he had been obliged to institute proceedings, to ascertain the true nature of the actions of the former trustee, Trundle, in relation to the trust estate, and had been obliged to employ a solicitor to assist him in effecting this object; that the necessity for such a course, had mainly arisen from the neglect of the former trustee properly to discharge his duty, and he prayed, that a reasonable amount might be deducted from the commissions allowed in the Auditor's accounts to the said Trundle, for his services as trustee, and paid to the solicitor of the petitioner for his fee.

The administrators of David Trundle, excepted to the Auditor's report, and the account marked A., for the following reasons :

1st. Because the account A. only allows the said David Trundle commissions at  $2\frac{1}{2}$  per cent., whereas, he should have been allowed commissions of 5 per cent., as stated in account B.

2nd. Because in account A., the said David is charged with interest, amounting to \$465; whereas account B. is correct, which charges no interest to the said David.